

REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Applicants thank the Examiner for total consideration given the present application. Claims 1-2 and 4-32 were pending prior to the Office Action. Claim 33 has been added through this reply. No claims have been canceled through this reply. Therefore, claims 1-2 and 4-33 are pending. Claims 1, 12, and 25 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seeks a timely allowance of all pending claims.

Claim Rejection - 35 U.S.C. § 102(e) / 35 U.S.C. § 103(a)

Independent claims 1, 12, and 25 stand rejected under 35 U.S.C. § 102 (e) as being allegedly anticipated over Horie et al. (U.S. Patent Publication 2003/0041137). Independent claims 1, 12, and 25 and their dependent claims 2, 4-11, 13-24, and 26-32 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Makoto et al. (JP Patent Publication 2000-224673) in view of Horie. Applicants respectfully traverse these rejections.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish a *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Argument A: Features of claims 1, 12, and 25 are not taught by Horie:

Original claim 1 recited, *inter alia*, “communication management section for detecting a communication condition of at least one of the first communication path and the second communication path, wherein the control right management section is capable of changing a

setting of the control right in accordance with variation of the communication condition detected by the communication management section.” *Emphasis added.*

The Examiner states that Horie allegedly discloses the acquiring of management information and therefore must disclose the above claim features. (See Office Action dated February 27, 2009, page 12, lines 10-15.)

While Horie discloses management information, Horie merely defines management information as information including model information of the device, sending level information, and state information of the device. (See Horie, paragraph 18.) Further, Horie discloses that sending level information is information corresponding to the processing type of sending (*i.e.*, timing) – degree of urgency to send information.

Therefore, Horie only acquires information used for knowing the degree of urgency of the information, *not* detecting a communication condition. Further, Horie does *not* change a setting of the control right based on a variation of the communication condition detected.

Thus, in contrast to the claimed apparatus, Horie fails to explicitly disclose:

- 1) detecting a communication condition; and
- 2) changing a setting of the control right based on a variation of the communication condition detected.

Further, Makoto fails to make up for the deficiencies of Horie.

The Examiner states that Makoto allegedly discloses a detection of a control signal where information is added to the control signal and therefore must disclose the above claim features. (See Office Action dated February 27, 2009, page 4, lines 1-8, and page 13, paragraph 2.)

While Makoto discloses the use of a control signal to control devices, Makoto fails to detect a communication condition. A control signal is a command, not a detection of a communication condition. Further, Makoto does *not* change a setting of the control right based on a variation of the communication condition detected.

Thus, in contrast to the claimed apparatus, Makoto fails to disclose:

- 1) detecting a communication condition; and
- 2) changing a setting of the control right based on a variation of the communication condition detected.

Claim 1 is submitted to be allowable over Horie for at least this reason.

Independent claims 12 and 25 are allowable for similar reasons as set forth above in reference to independent claim 1.

Dependent claims are allowable for the reasons set forth above with regards to independent claims 1, 12, and 25 at least based on their dependency on their independent claims.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 12, and 25 under 35 U.S.C. § 102(e).

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 12, and 25 and their dependent claims under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 1, 12, and 25 and their dependent claims are respectfully requested for at least these reasons.

Argument B: Features of claims 1, 12, and 25 are not taught by cited prior art:

However, while original claims 1, 12, and 25 are allowable for the above reasons, Applicants have amended independent claims 1, 12, and 25 only to further clarify the invention in order to move prosecution forward. Independent claims 1, 12, and 25 have been amended to include additional limitations. Claim 1 as amended recites, *inter alia*, “communication management section for detecting a communication condition of at least one of the first communication path and the second communication path, wherein the control right management section is capable of changing a setting of the control right without communicating with the communication device for which the control right is set; and the change of setting is made in accordance with variation of the communication condition detected by the communication management section.” *Emphasis added.*

In this invention, a communication condition monitoring section 27 monitors a condition of a communication, which is a function for detecting variation of the communication condition. In a case where the communication is stopped due to deterioration or the like of the communication condition, the communication condition monitoring section 27 notifies the communication station control section 23 of the stoppage. The communication station control section 23 instructs the device control information management section 24 to search the

receiving end address from the control information management table. When the address information is found, the communication station control section 23 instructs the device control information management section 24 to delete the receiving end address and the control information of the device, so that they are deleted from the control information management table. Thus, the control right for the device D is not given to any device. (See specification, line 14 of page 73 through line 7 of page 76.)

At no point in the above process does the communication monitoring section 27 communicate with the communication device for which the control right for device D is set. The effect of performing this change of control right without communicating with the communication device is to make it possible to automatically revoke the control right when a sending of a stream is stopped (see specification, page 76, lines 8-12).

In contrast to this, Makoto requires a “special signal” that is sent from the subunit 2A in order to change the setting of the control right. Makoto is silent as to changing the setting of the control right without communicating with the subunits 2A-2C. Therefore a combination of Makoto and Horie cannot arrive at currently amended claimed invention. Therefore, claim 1 as amended is submitted to be allowable over Horie for at least this reason.

The Examiner should also note that the control right is automatically set. (See specification, line 21 of page 77 through line 8 of page 78.) For example, this invention can be arranged so that a stream sending station (communication station C) detects a stream which is sent to the stream sending station from each of devices (such as devices D, E and F) connected to the stream sending station. More specifically, the control right is set between the device or the stream sending station itself and a stream receiving device or a stream receiving station (communication station A). As to this setting, there is a case where the control right for the stream receiving device or the stream receiving station is given to the device or the stream sending station. Adversely, there is a case where the control right for the device or the stream sending station is given to the stream receiving device or the stream receiving station. (See specification, line 21 of page 77 through line 8 of page 78.)

As stated above, claim 1 as amended is submitted to be allowable over Horie for at least this reason.

Independent claims 12 and 25 are allowable for similar reasons as set forth above in reference to independent claim 1.

Dependent claims are allowable for the reasons set forth above with regards to independent claims 1, 12, and 25 at least based on their dependency on their independent claims.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 12, and 25 under 35 U.S.C. § 102(e).

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 12, and 25 and their dependent claims under 35 U.S.C. § 103(a).

Reconsideration and allowance of claims 1, 12, and 25 and their dependent claims are respectfully requested for at least these reasons.

Conclusion

Therefore, for at least these reasons, claims 1-2 and 4-32 are believed to be distinguishable over the combination of Horie and Makoto, individually or in any combination. It has been shown above that the cited references, individually or in combination, may not be relied upon to show at least these features. Therefore, claims 1-2 and 4-32 are distinguishable over the cited references.

In view of the above remarks and amendments, it is believed that the pending application is in condition for allowance.

Applicants respectfully request that the pending application be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Aslan Ettihadieh Reg. No. 62,278 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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